

Application No.: 10/735,067
Response Dated: October 16, 2006
Reply to Office Action of: August 14, 2006

MAT-8493US

Remarks/Arguments:

The pending claims are 1-3, 10-20. The Office Action contends that claims 12, 19, and 20 are a separate and distinct species of invention and has withdrawn claims 12, 19, and 20 from consideration as directed to a non-elected invention. For the reasons explained below in these Remarks, Applicants' amendments to claims 12, 19, and 20 have removed the basis for the withdrawal of claims 12, 19, and 20 from consideration.

Claims 1-3, 10-11, 13 and 16 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Bohacik (U.S. Patent No. 5,682,644) in view of Sasame (U.S. Patent No. 3,929,596). The rejection is respectfully traversed.

Claim 1 recites, in part:

the spring is placed between the cover and rotor, so that the cover, the case, the rotor, and spring are rotatable simultaneously.

Paragraph 7, page 7, of the Office Action contends that "there is essentially no difference in how the spring member of the applied art [Bohacik] is disclosed and how applicant has disclosed this spring member." Based upon this contention, the Office Action then states that "it is reasonable to assume they function in the same manner." Applicants respectfully disagree:

The Office Action has not pointed to anything in the cited art that supports such an assumption. Bohacik does not provide any information upon which someone skilled in the art can assume that its spring 42 (identified in paragraph 2 of the Office Action) rotates along with its case 11 and its rotor 15. Instead, Bohacik's disclosure actually suggests that its spring 42 does not rotate along with its case 11 and its cam 15.

In Bohacik, one end of spring 42 provides a compression force against lower cam (rotor) 15 (col. 5, lines 9-13; col. 5, line 65-col.6, line 3) and an equal compression force against abutment means 44 at the other end of the spring (col. 4, lines 55-57). As the lower cam 15 moves down, it causes further compression to spring 42. (col. 6, lines 34-36). The combination of inclined surface 34 and spring 42 requires extra effort by the user to open the

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door. (col. 6, lines 41-44). After spring 42 has been compressed to a certain point, spring 43 comes into play and requires even greater force to open the door. (col. 6, lines 45-53). The aforesaid discussion in Bohacik's specification requires a reasonable assumption that the springs in Bohacik contribute to making it more difficult to open the door, in part, because they do not rotate with the case and the cam 15. Instead, there is a reasonable assumption that the ends of the springs make it more difficult to open the door in part because of friction between one or both of the ends of spring 42 and the respective elements that each end pushes against. Nothing in Bohacik contradicts Applicants' interpretation. Because the Office Action has made an unsupported assumption, the Office Action has failed to provide substantial evidence (as is required) that the Bohacik device operates in the manner assumed by the Office Action.

Page 7 of the Office Action also contends that it is "reasonable to assume" that spring 42 of Bohacik "will rotate along with these other elements because it would appear that the only force resisting such rotation of the spring would be the inertia of the spring itself (which is obviously too small to be an issue)." Again, the Office Action has not produced substantial evidence (or any evidence) that the only force resisting rotation would be the inertia of the spring itself and that the inertia of the spring is too small to be an issue. The Bohacik specification is replete with statements regarding the compression of the spring. The Bohacik specification contains no comment about whether the spring rotates or remains stationary, makes no comment about the inertia of the spring, and makes no comment about any forces upon the spring except compression forces. Absent any suggestion in the specification, there is no basis upon which one skilled in the art can assume that the only force resisting rotation of the spring is the inertia of the spring and that the spring rotates. An absence of information does not permit speculation. As indicated above, the specification clearly indicates that the purpose of Bohacik is to make opening the door more difficult (not less difficult) as rotation of the door progresses. As Applicants have discovered, rotation becomes easier when the spring rotates along with the other elements. Based upon that discovered advantage, they have invented a device wherein "the cover, the case, the rotor, and spring are rotatable simultaneously" as recited in claim 1.

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The Office Action has not produced substantial evidence that, in Bohacik, "the cover, the case, the rotor, and spring are rotatable simultaneously" as required by claim 1.

The Office Action relies upon Sasame only to show the concept of using a coating on sliding metal members for the purpose of providing lubricating properties, thereby reducing frictional wear. Sasame does not show any of the other features recited in claim 1.

Accordingly, claim 1 and dependent claims 2, 3, 10, 11, 13 and 16 are not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Bohacik in view of Sasame.

Dependent claim 10 recites a fix shaft "wherein one end of the fix shaft is fixed to the stator." This feature is not shown in Bohacik. Page 3 contends that pin 48 of Bohacik is equivalent to the fix shaft of claim 10. Page 2 of the Office Action contends that element 25 is a stator. (Actually, cam member 14 is a stator and reference number 25 identifies lobe 25 of cam member 14. See, col. 3, lines 61-65). Page 3 of the Office Action identifies abutment means 44 as a cover. Accordingly, in order for Bohacik to meet claim 10, one end of pin 48 must be fixed to cam member 14. It is not.

The top end of pin 48 is not fixed to cam member 14. Instead, the top end of pin 48 extends into a counterbore 50 in the lower end of pin 16 that passes through cam member 14. In one position of the cam members 14 and 15, pin 48 extends part way into counterbore 50, as shown in Fig. 3. In another position of the cam members, pin 48 slides further into the counterbore as shown in Fig. 4. (col. 5, lines 20-32). Although pin 16 is secured to cam member 14 by a dowel pin 17 (Fig. 3; col. 3, lines 43-45), and although one end of pin 48 extends into the counterbore 50 of the pin 16, the end of pin 48 that extends into counterbore 50 is not fixed to cam member 14. Instead, as shown above, that end of pin 48 is not fixed to anything, thereby enabling it to slide within counterbore 50. If pin 48 were fixed to cam member 14, it would not be able to slide within counterbore 50. Accordingly, claim 10 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Bohacik in view of Sasame for these additional reasons.

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Claims 14 and 15 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Bohacik in view of Sasame in further view of Murray (U.S. Patent No. 5,996,178) and Bancroft (U.S. Patent No. 4,713,861). Applicants incorporate by reference the arguments they made in their April 21, 2006 response to the previous Office Action which also relied upon the same four references to reject these claims. At least for those reasons, claims 14 and 15 are not subject to rejection under 35 U.S.C. § 103(a) based upon the four cited references.

Claim 17 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Bohacik in view of Sasame in further view of JP 6323325 A. Applicants incorporate by reference the arguments they made in their April 21, 2006 response to the previous Office Action which also relied upon the same three references to reject this claim. At least for those reasons, claim 17 is not subject to rejection under 35 U.S.C. § 103(a) based upon the three cited references.

Claim 18 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Bohacik in view of Sasame in further view of Wilcox (U.S. Patent No. 5,628,089). Applicants incorporate by reference the arguments they made in their April 21, 2006 response to the previous Office Action which also relied upon the same three references to reject this claim. At least for those reasons, claim 18 is not subject to rejection under 35 U.S.C. § 103(a) based upon the three cited references.

In Applicants' April 21, 2006 response, they added claim 19 based on Fig. 5, amended claim 12 so that it depended from new claim 19, and added claim 20 based on Fig. 4. Claims 19 and 20, as presented in the April 21, 2006 response, recited first, second, and third lubricant means. Paragraph 6 of the Office Action has withdrawn claims 12, 19, and 20 from consideration as being directed to a non-elected invention. The reasons for this action are stated in paragraph 6 of the Office Action:

the additional lubricating means of these claims are not necessary for the originally claimed invention to function properly and constitute a separate and distinct species of invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

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Claims 12, 19, and 20 have now been amended by reciting first, second, and third slide members instead of first, second and third lubricant means. For the reasons explained below, these amendments have removed the basis for the Office Action's withdrawal of these claims from consideration.

Original claim 5 recited that the lubricant means is a slide member. Original claim 6 recited a second slide member. Original claim 7 recited a third slide member. Original claim 8 recited second and third slide members. The previous Office Actions did examine claims 5-8 on the merits:

- Paragraph 2 of the December 12, 2004 Office Action examined claims 1-15.
- Paragraph 2 of the June 8, 2005 Office Action examined claims 1-17.
- Paragraph 2 of the January 17, 2006 Office Action examined claim 5 and paragraph 3 examined claims 6-8.

Claims 12, 19, and 20, as amended herein, now use the term "slide member," just as had been recited in claims 6-8, which have been previously examined. Accordingly, claims 12, 19 and 20 do not present "claims directed to an invention distinct from and independent of the invention previously claimed," the election requirement must be withdrawn, and the claims must be examined on the merits.

Once the election requirement is withdrawn and the claims are examined, Applicants submit that claims 12, 19 and 20 are all allowable over the cited prior art for the reasons set forth in Applicants' April 21, 2006 response.

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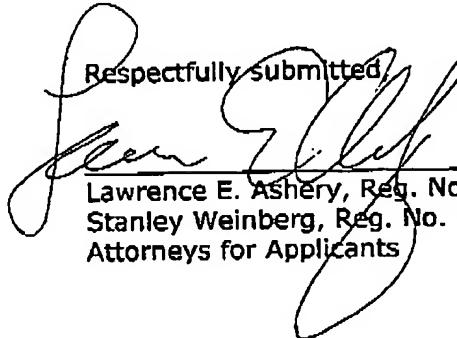
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For all of the above reasons, Applicants submit that all claims, including claims 12, 19 and 20 are now in condition for allowance, which is requested.

Respectfully submitted,


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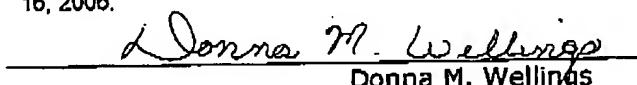
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I hereby certify that this correspondence is being transmitted via facsimile to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 16, 2006.


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